

# **Drug Policy Task Force**

**Date: April 5, 2010 Time: 3:00pm – 5:00pm**

## **Attendees:**

### **Acting Chair**

Tom Raynes/Deputy Attorney General's Office

### **Task Force Members**

Bill Kilpatrick/Chief of Golden Police Department

Maureen Cain/Colorado Criminal Defense Bar

Brian Connors/Public defender

Miles Madorin/Deputy District Attorney, 1<sup>st</sup> Judicial District

Nancy Feldman/Manager Victims of Crime Unit, Division of Criminal Justice

Christie Donner/Executive Director Colorado Criminal Justice Reform Coalition

Paul Thompson/Peer 1

Shane Bahr/ State PSC Coordinator/ Colorado Judicial Department

### **Staff**

Christine Adams/DCJ

Kim English/DCJ

Paul Herman/CEPP

Germaine Miera/DCJ

## **Absent:**

Grayson Robinson/Arapahoe County Sheriff – Chair

Dean Conder/Chairman, Juvenile Parole Board – Vice-Chair

Evie Hudak/Colorado State Senator, 19<sup>th</sup> District

Sean McAllister/Defense attorney

Doyle Forrestal/Colorado Behavioral Health Care Council

Don Quick/District Attorney, 17<sup>th</sup> Judicial District

Regina Huerter/Executive Director, Denver Crime Prevention and Control Commission

Reo Leslie/Colorado School for Family Therapy

Greg Long/Chief Deputy District Attorney, 2<sup>nd</sup> Judicial District

Carmelita Muniz/Colorado Association of Alcohol and Drug Service Providers

Kathleen McGuire/Public defender

Pat Steadman/Colorado State Senator, 31<sup>st</sup> District

Dan Rubinstein/Chief Deputy D.A., 21<sup>st</sup> Judicial District

Mark Hurlbert/District Attorney, 5<sup>th</sup> Judicial District

Jim Welton/Inspector General, Dept. of Corrections

Mark Waller/State Representative

Issue/Topic:	Discussion:
<p>Welcome and Review of Agenda</p> <p><b>Action</b></p>	<p>Both Grayson Robinson and Dean Conder were both absent. Tom Raynes filled in as chair of the meeting. Tom called to meeting to order and reviewed the day's agenda.</p>

Issue/Topic:	Discussion:
<p>Review of Treatment Funding Working Group Progress</p> <p><b>Action</b></p>	<p>Kim English updated the group on the Treatment Funding Task Force and their work up to now.</p> <ul style="list-style-type: none"> <li>• The group is working on a white paper that lays out the scientific basis of the new treatment response to the drug treatment paradigm.</li> <li>• The last 20 years of addiction research, along with new research on brain imaging, shows an incredible amount of information on why what we've done in the past doesn't work. The white paper will lay out, in great detail, why it is critical to approach this problem differently in order to reduce recidivism. There is huge agreement within the medical field that addiction is a medical problem. As a society we have a low tolerance for relapse, etc. However, research shows relapse for drug abuse is likely. The white paper is fleshing out those details.</li> <li>• At a minimum, only 14% of people who need treatment in our state are getting it. The good news is that if you're in the criminal justice system you're a lot more likely to get treatment than if you are not. However, how the criminal justice system deals with relapse needs to be addressed, how to deal with failure, etc.</li> <li>• Kim is reviewing current literature in terms of evaluating programs. Recommendations from the Funding Group will come out of the white paper to the Commission. So far during her research Kim reports that success rate outcomes don't look so bad. DBH tracks treatment outcome. There's a ton of data out there, it's just hard to sift through it. For the most part, people are completing treatment. But that doesn't mean that they won't come back.</li> <li>• The white paper will also examine where the funding is coming from and where it's going.</li> </ul> <p><b>Questions and Comments-</b></p> <p>Does the white paper address co-occurring disorders?</p> <ul style="list-style-type: none"> <li>• Yes, the white paper addresses this issue.</li> <li>• 41 percent of people in CSP1 are identified as offenders with mental illness.</li> </ul> <p>It's difficult to get certain members of the community to 'get' the concept of medical relapse when it comes to addiction. How do you convince the public that drug abuse is 'medical' when people <b>choose</b> to use?</p> <p>Will the white paper address inpatient treatment vs. outpatient treatment?</p> <ul style="list-style-type: none"> <li>• Treatment is based on assessment, but the extent to which that currently happens is unclear. The white paper addresses both inpatient and outpatient treatment, but the first thing you have to do is get people to complete the portion they're sentenced to. If an offender completes the treatment program he/she entered the outcomes are better than if they don't complete treatment.</li> </ul>

Shane Bahr announced that the SB-318 conference is coming up April 27<sup>th</sup>, 28<sup>th</sup> and 29<sup>th</sup> of this month. About 400 people are currently signed up and it's at the Denver Tech Center Marriott. We're trying to pull together a state representative group.

What do we do about the fact that we don't have a medical system set up to allow for treatment that is necessary?

- Every culture on earth and kids in particular go through a risk taking experimental phase, but some people go through that phase and come out the other end just fine while others have something chemical happen to their brain when they go through this.
- We need some sort of socialized medicine around drug treatment in order to get this all funded. We're trying to identify who's the criminal and who isn't.

Most offenders go into outpatient care (especially DUI offenders). DBH has done a lot of research and it's very clear that for those who complete care the outcomes are much better. It's not always a money issue.

Many of our peers and colleagues who aren't well informed [about substance abuse] are not on board when it comes to a lot of the Commission's recommendations. We need an educational component with real proof to get our peers on board.

The white paper will be a great educational tool. When you talk about your brethren who aren't educated in this arena, will they read something like a white paper?

- For peers to consider changes the paper has to show something concrete that has been proven in a certain community. You have to show them on the street how things work. Unfortunately we're in a time where many people don't care what a piece of paper says. They believe what they believe and nothing changes anyone's mind. Most of us have made up our minds on what we believe and it's hard to change that with a white paper. Then it just takes leadership to do the right thing.

There are issues that go along with getting offenders into treatment before their case has been heard. How can people get into treatment without negatively affecting their criminal case?

We need to make sure to include a piece in the white paper where we literally map treatment dollars, how they flow, who are the decision makers, etc. Plus fighting the battles of the groups that are behind all the treatment, etc. There is not currently a unified treatment culture.

Issue/Topic:	Discussion:
Review legislative bills from Drug TF recommendations.	HB-1347 – DUI bill – This bill is in appropriations and is in pretty good shape. The DUI bill has a \$400 thousand dollar fiscal note (one problem). This is because the offenders who will go to jail automatically (for repeat offenses) will then have

## Action

one or two year's mandatory probation after they get out. How much does probation cost/day?

Regardless, the DUI bill should get through somehow.

HB1352 - Drug bill – has sailed through the house unanimously and will go to appropriations this Friday.

Both bills are sailing through on their merits.

### Questions and Comments-

The drug bill shows 50 million dollars in savings over the next 5 years. The purpose of the reductions was to free up money for treatment. Can the funding group track whether these funds will make it to treatment?

We need to get a plan together to make sure that if this bill passes the cost savings go to the appropriate services. Will the treatment group have something between now and next year on how to get the savings and current monies to the right places, the right funding streams?

One of the recommendations the Funding Group is posing to the CCJJ this Friday is in regards to consolidation of funding streams.

Passing a bill, and getting it actually up and running, are two different things. How do we make sure various entities have measured success? What is the consistency in measurements? Even if someone makes it through a 90 day program, how do you know they don't reoffend?

We have savings on some of the other CCJJ bills that will hopefully capture and offset the fiscal notes on the DUI bill. The stakeholders here have to start fighting for the money with appropriations, etc. If we want the money, we have to have a plan and we have to push. The Commission has a lot of authority. We have to make sure the \$1.5 million savings on the drug bill gets captured. We need to meet with JBC analyst over this bill, go to the IAC.

On the money laundering bill, we need to push back on that fiscal note. We need to figure out a global plan on all of this.

Also, the medical marijuana bill was amended to include money for treatment, up to 2 million dollars (on a different funding stream).

If there is an issue around combining a specific amount of money, would treatment funding recommendations (this Friday) help with that?

The Commission bills have been carried by the members of the CCJJ, but we need some backing from CDPS and others (DA's, Defense, etc.).

As soon as we can get fiscal notes from all the CCJJ bills we need to make a plan. If we lose some of the drug surcharge money, we'll need to raise it elsewhere (M1's or petty offense, etc.).

Judicial collects about 80% of the drug offender surcharge over time. Either Ted Tow or Mark Randall needs to be involved. Peg Ackerman and Ann Marie Jensen are also both good on budget issues. Tom Quinn is also good on this, plus Eric Philip. In addition, Tom Quinn is very concerned about the DUI.

Issue/Topic:	Discussion:
<p data-bbox="193 207 435 233">Where are we now?</p> <p data-bbox="272 243 355 268"><b>Action</b></p>	<p data-bbox="561 207 1490 273">Paul Herman addressed the group about the work they hope to accomplish in the coming year.</p> <p data-bbox="561 312 1482 378">One of the purposes of this section of the agenda was to sit back for a second and make sure everyone is clear on where we are.</p> <p data-bbox="561 417 1507 556">Originally (a year ago) this group thought Recommendation #1 was a good solid approach to move forward on, however, it needed more work done on it than we could accomplish during the given time. There was pushback both on the amount of work and the availability of resources (2 roadblocks).</p> <p data-bbox="561 596 1463 699">In essence, the group's intent was to get some items through the legislature during this (2010) session and then move forward on the larger, original recommendation #1.</p> <p data-bbox="561 739 1503 804">The question today is "Is this still appropriate? Is this still the direction we want to go?"</p> <p data-bbox="561 844 881 875"><b>Questions and Comments-</b></p> <p data-bbox="561 882 1450 984">If the drug task force is to move forward on developing/pushing recommendation #1 forward, how does that intersect with the work of the sentencing task force?</p> <p data-bbox="561 1024 1516 1127">We're not going to get the buyoff on recommendation #1 until we've addressed the money problems regarding treatment. We still have 2 or 3 steps to take care of before we can get to recommendation #1.</p> <p data-bbox="561 1167 1507 1232">If we want to pitch recommendation #1, we need to have our money silo issues resolved. We also know that in 5 years out we'll have 33 million from HB1352.</p> <p data-bbox="561 1272 1511 1411">How do we work this out with timing? We have to see what the treatment funding group comes up with first. The Commission went with us this year because the risk was not substantial. When we jump to recommendation #1 the CCJJ is going to demand that the necessary infrastructure be in place.</p> <p data-bbox="561 1451 1495 1589">What we've done so far with our drug recommendations is to focus on possession only. This year we tackled only specific issues regarding possession and personal use. We're now left with the more egregious offenders. We can't decide what to do with them without having the treatment structure in place.</p> <p data-bbox="561 1629 1507 1801">A long time ago there was some discussion that at some point some in Colorado's legislative history a member of the legislature simply doubled all the penalties (Milky bill). We've never had any discussion about the sentence that ends at 16 years. Is there really any reason the sentence is 16 years and not 14 years? When do we have THAT discussion?</p> <p data-bbox="561 1808 1511 1873">The ranges for many things will fall under the work of the sentencing policy task force.</p> <p data-bbox="561 1913 1523 1978">Recommendation #1 is a clean slate recommendation regarding drugs. In recommendation #1 there was a focus on 12 years as a maximum period of time.</p>

So there was some discussion regarding this issue.

Again, in previous conversations, one of the thoughts was that this group would work on identifying what needs to be done to make recommendation #1 happen. Could that be completed for the 2011 legislative session while sentencing task force works on a package for 2012?

The recommendation #1 clean slate approach is dependent on resources. So, will the answer to the resource issues come soon enough to be worthwhile to work on recommendation #1? Or will the treatment funding answers take so long that drug recommendations need to be pushed to 2012?

Members of the Treatment Funding Task Force say that they don't believe it's going to take as much time as we think to generate the funds for treatment. There is currently a lot of work going on around parole guidelines (e.g., HB-1352 and HB-1360, treatment options for the parole board in lieu of revocation). The savings will be there, the challenge will be identifying the appropriate places for treatment funds to go. Treatment funding should have enough good info by the summer.

The only thing funded worse than treatment is evaluation. Money is needed to appropriately evaluate these treatment programs that we might want to fund.

There has to be a structure in place.

**Issue/Topic:**

Where do we go next?

**This group will wait to move forward on Recommendation 1 until**

- the white paper from the funding group is complete, and
- the legislative session is over.

**This way we'll know where we're at legislatively as well as funding wise.**

**The group raises the following questions on how to proceed-**

Where are the dollars?

How can we get into the flow?

How do we identify programs and programs that work?

What about the assessment piece?

On-going evaluation and oversight?

Consolidation?

Decision maker piece?

It's not that we don't have an infrastructure because we do.

How do we have a partnership at a planning level (be it IAC or SB318)?

**Comments-**

There's an effort underway linked to the Commission and the transformation grant regarding some of this work. We should engage with that process (the behavioral health money).

- Keep in mind that we're looking at the offender population specifically and the Behavioral Health Initiative is looking at everything.

How do we move forward this year? Can we be ready for next session when we have an election in-between?

A year ago when we first started talking about sentencing reform there was a concern that if we put this off, the legislature would make its own decisions. Isn't this an issue?

We shouldn't shelve everything while we wait. We can still come up with

templates and grids, etc.

Paul Herman stated that this group did excellent work already by making difficult policy decisions. You've identified the structure and have some very good definition on your grid already.

It was decided that we're not in a position to make this decision today. Furthermore, there are some structural issues that haven't been dealt with. And finally, it's not that we have to shelve recommendation #1 completely. Work could still be pursued on parts of recommendation #1.

Can we skip the May meeting and then pick the ball up in June? We would then know what we have out of this current legislative session, we would have a starting point.

We could do some work on better identifying and articulating the structure issues. It would be foolish to take this in front of the Commission at this point. The Commission made it clear that they want better information about treatment options before we move forward.

HB-1352 requires DCJ to do a fiscal analysis/impact, but we didn't put that on any other bill. Do we have a treatment defined mission in any of the other bills?

- No.

If we're saying we want to look at this in conjunction with the greater mission (reducing criminal behavior) – are we putting it altogether? The clause in the Steadman bill for tracking by DCJ was not part of the original Commission recommendation either.

#### **For the CCJJ meeting this Friday –**

We need clear instructions soon from the Commission on attaching analysis portions to all of the CCJJ bills. Is there a downside to putting this in front of the Commission? The downside is that all of these savings will come out of the DOC side and therefore are not ready to be reallocated automatically to treatment until results are quantified. All this money will be coming out of DOC. It might not be decreased money; it may just be slower growth. There really are some immediate savings with DOC per diem rates.

Can someone meet with Rep. Palmer in the next day or so to see if we should have a clause on every bill regarding cost savings?

- If we put something on the agenda that isn't even practical or possible, we shouldn't do it.
- The issue gets back to the fact that DOC is the main player in all of this.
- The argument should be made to the Commission. If the commission says "We strongly believe that you should do this".

Paul Herman stated that in some ways you have identified practical timelines.

- Until the session is over the people in this task force can't take anything else on. In the interim we (Paul and DCJ staff) can look at some structural issues.

Once the session is over and we know what we have, both from the statutory

and financial perspective, we'll be in a better position to say "where do we go from here". The structural stuff will have to be done assuming the bill passes.

Could the white paper include a map of the funding issues by June?

If we eliminate May, are we okay with a monthly meeting still working for folks?

- Paul suggested we just wait until June to figure out our meetings.

So, If the sentencing group decides on a longer term process, is this group interested in pursuing recommendation #1 even if the overall sentencing structure doesn't change for a period of time?

- The goal of simplifying the sentencing structure would be mute if we add another separate layer of recommendation #1.
- We want to move forward with recommendation #1, even if it's piecemeal.

No matter where the Sentencing Policy group goes, are we okay with a separate drug grid?

- You could make an argument that a separate drug section doesn't necessarily go against greater consistency in an overall sentencing reform revamp. A separate and well defined drug section could help inform the bigger sentencing issue.

No matter what, we have to deal with the fact that many times someone is sentenced to drug and criminal behavior and these can never be separated. We have a lot of complicated issues regarding the Sentencing Policy Task Force meeting tomorrow (Tuesday, April 6) and the overall sentencing reform structure.

The Sentencing Task Force meeting will be very complicated. Do we have consensus to move forward as a drug group regardless of what happens with the overall group?

- Yes.

Issue/Topic:	
Discussion of Future Meetings	The group agreed to meet again in June after the legislative session ends.